

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claims 36 and 43-45 were indicated to be directed to allowable subject matter.

Claims 42, 44 and 45 were amended responsive to the claim objections.

Claims 33-40, 42, 46-52, and 62 were rejected under §112, 2<sup>nd</sup> paragraph as indefinite.

The claims have been amended to remedy the stated bases of rejection. As to line 62, see the recitation of "forming a conductive material layer around the metal having the valve action via the dielectric coating to form a strip line;" providing antecedent basis for "the strip line" in line 8.

Withdrawal of the indefiniteness rejection is solicited.

Claims 33-35, 37-39, 41, and 47-52 were rejected as obvious over MASUDA 6,721,171 in view of ARAI GB 2 393 334.

Withdrawal of the obviousness rejection is solicited.

As an initial matter, ARAI is not prior art to the present application. The present application is a National Stage of PCT application PCT/JP2003/011209 and accordingly has a U.S. filing date of September 2, 2003.

ARAI is not a U.S. patent or publication and therefore does not qualify as §102(e) art. ARAI was published on March 24,

2004 which was subsequent to the filing date of the present application, i.e., subsequent to September 2, 2003. Therefore, ARAI is not prior art under §102(a) or §102(b).

Withdrawal of the obviousness rejection on this ground is therefore solicited.

Additionally, MASUDA may be prior art only under §102(e), and only to the extent that the subject matter is "by another". However, without addressing the "by another" issue, the undersigned attorney verifies that the MASUDA subject matter as well as the subject matter of the present invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person, i.e, NEC Corporation. Therefore, MASUDA is not prior art under §102(e) as per §103(c)(1).

Withdrawal of the obviousness rejection on this ground is therefore also solicited.

Claim 41 was rejected as anticipated by MASUDA.

MASUDA is prior art only if the claimed invention is described "by another". Applicants note that two of the three named inventors of the present application are named inventors of the MASUDA patent.

The invention recited by claim 41 is not "by another" as the subject matter relied upon in MASUDA is applicant's/applicants' own invention. The subject matter of claim 41 is the invention of Mr. Koichiro MASUDA and Mr. Hirokazu

TOHYA. Mr. Hideki SHIMIZU of the present application did not contribute to the invention of claim 41. Additionally, the corresponding subject matter in the MASUDA patent is also the invention of Mr. Koichiro MASUDA and Mr. Hirokazu TOHYA. Mr. Masaharu SATOH of the MASUDA patent did not contribute to this subject matter, and rather contributed to other subject matter disclosed and claimed by the MASUDA patent.

Attached is a Rule 132 declaration that established that Koichiro MASUDA and Hirokazu TOHYA invented the subject matter disclosed in the MASUDA patent and claimed by claim 41.

Withdrawal of the rejection as to claim 41 is solicited.

Allowance of all the claims is solicited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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**APPENDIX:**

The Appendix includes the following item(s):

- an executed Rule 132 Declaration